



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 1:060. Electronic fund transfer

5 RELATES TO: KRS 131.155[,131.180,131.183,131.990]

6 STATUTORY AUTHORITY: KRS 131.130[(+)], 131.155[(2), (3)]

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
8 Department of Revenue~~[-Cabinet]~~ to promulgate administrative regulations for the administration
9 and enforcement of all tax laws of this state. KRS 131.155(3) requires the Department of Revenue~~[-Cabinet]~~
10 ~~Cabinet]~~ to promulgate administrative regulations establishing electronic fund transfer
11 requirements for the payment of taxes and fees administered by the department~~[-cabinet]~~. KRS
12 131.155(3)~~[(2)]~~ authorizes the Department of Revenue~~[-Cabinet]~~ to prescribe means of electronic
13 fund transfer of taxes and fees. This administrative regulation establishes requirements relating to
14 the remittance of funds to the department~~[-Revenue Cabinet]~~ via electronic fund transfer.

15 Section 1. Definitions. (1) "Debit method" means the method of payment where the taxpayer
16 or his authorized agent authorizes the Department of Revenue~~[-Cabinet]~~ or its authorized agent to
17 initiate the transfer of a set amount of funds on a set date from a taxpayer or agent-controlled
18 account in a financial institution to satisfy taxes or fees due based on required information
19 transmitted to the department~~[-cabinet]~~ prior to the department~~[-cabinet]~~ effecting the transfer.

20 (2) "Credit method" means the method of payment where the taxpayer or his authorized agent
21 initiates the transfer of funds from the taxpayer or agent controlled account in a financial institution

1 to the designated Commonwealth bank account to satisfy taxes or fees due.

2 (3) "Lookback period" means the twelve (12) month period ending on September 30 of the
3 year immediately preceding the current calendar year. For example, the lookback period for
4 calendar year 2001 is the period beginning on October 1, 1999 and ending on September 30, 2000.

5 Section 2. Reporting and Payment Requirements. (1) Any taxpayer whose average payment
6 per reporting period during the lookback period for the sales and use tax required to be collected
7 or paid under KRS Chapter 139 exceeds \$25,000 or any employer whose average payment per
8 reporting period during the lookback period for the income tax required to be withheld under KRS
9 141.310 exceeds \$25,000 shall submit to the department~~[cabinet]~~ a properly executed Revenue
10 Form 10A070 "Authorization Agreement for Electronic Funds Transfer" stating the method
11 requested to be use and upon written approval of the method by the department~~[-cabinet]~~ shall pay
12 the tax by electronic fund transfer using the debit method or other method approved by the
13 department,~~[cabinet]~~ including the credit method, provided the method complies with the
14 guidelines set out in subsection (3) of this section.

15 (2) Persons required by KRS 131.155(2) to remit funds by electronic fund transfer on behalf
16 of other taxpayers shall conform to the provisions of subsection (1) of this section. In addition,
17 such persons shall, for each taxpayer represented and for each payment period, provide the
18 information necessary to properly credit the account as required in subsection (3) of this section.

19 (3) Execution of any electronic fund transfer transaction shall conform to the guidelines and
20 procedures of each participating financial institution. Any electronic transfer of funds must provide
21 information necessary to properly credit the taxpayer account, including:

22 (a) Taxpayer account number;

23 (b) Type tax code;

1 (c) Tax period end date;

2 (d) Amount of transfer;

3 (e) Date of payment transfer; and

4 (f) Any other information deemed necessary by the department~~[eabinet]~~ to properly credit the
5 account.

6 (4) The department~~[eabinet]~~ may withdraw approval to utilize the credit method or any method
7 employed other than the debit method if the taxpayer or his authorized agent fails to provide
8 required information necessary to effect the transfer and credit funds to the proper taxpayer
9 account.

10 (5) Any taxpayer or employer may volunteer to pay the tax by electronic fund transfer by
11 making a written request to the department~~[eabinet]~~ and, if approved by the department,~~[eabinet]~~
12 shall be subject to the same requirements as any taxpayer or employer required to electronically
13 transfer the tax. The taxpayer or employer shall comply with the electronic fund transfer~~[-fund]~~
14 requirements until a written request to change methods is filed and approved by the
15 department.~~[eabinet]~~

16 Section 3. Alternative Payment Method. (1) A taxpayer or authorized agent for a taxpayer or
17 taxpayers shall make a request to remit funds by electronic means other than the previously
18 approved method. This request may be either written or oral.

19 (2) Approval of such method shall be at the discretion of the department~~[eabinet]~~ and limited
20 to demonstration of extreme circumstances.

21 (3) The following information shall be provided with the request or upon approval of the
22 request:

23 (a) Reason for requesting alternate remittance method; and

1 (b) Method of remittance proposed.

2 Section 4. Procedures. (1) Due date of electronic fund transfer.

3 (a) The due date of any electronic fund transfer for any tax shall be governed by the applicable
4 law and regulations pertaining to that tax.

5 (b) The initiation date recorded in the automated clearing house system by the originating
6 financial depository institution for any electronic fund transfer shall be the payment date.

7 (2) Manner of electronic fund transfer. Separate electronic fund transfers shall be made for
8 each type tax account number designated as an electronic fund transfer account under the
9 provisions of KRS Chapter 131.

10 (3) Overpayment or underpayment of tax. Any overpayment of tax may be applied toward the
11 amount due for the next tax period or may be refunded upon request by the taxpayer or employer.
12 If the amount of tax liability for a taxable period exceeds the total amount electronically transferred
13 for the same period, the taxpayer or employer shall pay the additional tax due.

14 Section 5. Change in Reporting and Payment Requirements for Electronic Fund Transfer. After
15 the department~~[cabinet]~~ makes a determination regarding a taxpayer's or employer's reporting and
16 payment requirements for electronic fund transfer, the taxpayer or employer shall comply with the
17 requirements until a written request to change is filed with and approved by the
18 department~~[cabinet]~~.

19 Section 6. Penalties and Interest. Any taxpayer or employer who fails to comply with the
20 provisions of this administrative regulation shall be subject to penalties as provided in KRS
21 131.180 and 131.990 and interest as provided in KRS 131.183.

22 Section 7. This administrative regulation shall apply to any taxable or payroll period beginning
23 after December 31, 2000.

1 Section 8. Incorporation by Reference. (1) Revenue Form 10A070 "Authorization Agreement
2 for EFT", January 2001, is incorporated by reference.

3 (2) This form may be inspected, copied, or obtained, subject to applicable copyright law, at the
4 Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, or at any
5 Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to
6 4:30 p.m.~~[Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at any Kentucky~~
7 ~~Revenue Cabinet Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

103 KAR 1:060

APPROVED:

Daniel Bork
DANIEL BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

JUNE 6, 2019
DATE APPROVED BY AGENCY

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on July 25, 2019 at 10:00 a.m. in Room 9B, State Office Building, 501 High Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 103 KAR 1:060

Contact Person: Lisa Swiger
Phone Number: (502)564-9526
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 1:060 to remove outdated references to the Revenue "Cabinet" structure and replace them with the correct references to the Kentucky Department of Revenue.

(b) The necessity of this administrative regulation: KRS 13A requires that all regulations containing outdated or incorrect information be deemed deficient. The amendments made within this administrative regulation are necessary to be compliant with KRS 13A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: See (1)(b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendment to this administrative regulation will insure that the most up to date and correct information is provided to taxpayers of the Commonwealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: See (1)(a).

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any taxpayer wishing to make a payment via electronic fund transfer for the payment of taxes and fees administered by the Department.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Other than potentially updating address information for the Department, there are no actions required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs associated with these changes.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will have the most recent contact information regarding the Department of Revenue.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no additional costs associated with this amendment. Any applicable cost will be absorbed by the current department budget.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Currently budgeted department funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not applied. The updating of this administrative regulation will impact any taxpayer utilizing the guidance within equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 103 KAR 1:060

Contact Person: Lisa Swiger

Phone Number: (502)564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Finance and Administration Cabinet, Department of Revenue will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A and 131.130.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for government agencies because of amending this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: